

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Rio Nido Post Office
Rio Nido, California

Docket No. A2017-2

PUBLIC REPRESENTATIVE REPLY COMMENTS
CONDITIONALLY SUPPORTING POSTAL SERVICE DETERMINATION

(August 14, 2017)

Pursuant to the Commission's Notice in this proceeding,¹ the Public Representative hereby provides comments conditionally supporting the Postal Service's determination to close the Rio Nido Community Post Office (CPO), Rio Nido, CA.

I. BACKGROUND

On June 29, 2017, a petition was filed by several citizens and entities of Rio Nido, CA requesting Commission review of the Postal Service determination to close the Rio Nido CPO.² On June 30, 2017, the Commission issued a notice of this proceeding and established a procedural schedule.

On July 10, 2017, the Postal Service filed a motion to dismiss the proceedings on two grounds.³ First, the Postal Service continues to maintain that 39 U.S.C. § 404(d)(5) does not apply to closings of contractor operated retail postal facilities not owned or operated by the Postal Service. Second, it cites Commission orders establishing the policy that the Commission declines to review for lack of jurisdiction appeals where the

¹ Notice and Order Accepting Appeal and Establishing Procedural Schedule, Order No. 3989, June 30, 2017.

² Appeal of Final Determination Re: Closure of Rio Nido, California Post Office, June 29, 2017(Petition). Petitioners filed an Amended Participant Statement on July 3, 2017.

³ United States Postal Service Motion to Dismiss Proceedings, July 10, 2017 (Motion).

facility is not the “sole source” of postal services to the affected community. Motion at 6-7.

On July 20, 2017, the undersigned responded in support of the Postal Service Motion.⁴ However, the availability of home delivery to those affected customers was noted as an issue of concern by the Public Representative, but it is expected that the Postal Service will follow its home delivery policies in the area. The Response stated:

Petitioners seek to distinguish the *Careywood* decision (where carrier delivery was available to customers) because, they say, Rio Nido customers do not receive carrier delivery. However, Petitioner’s filing indicates that some Rio Nido residents do receive delivery service. Petitioners state, “The Guerneville Post Office also delivers to *Rio Nido residents* on the west side of Rio Nido Road in Rio Nido. Its deliveries surround, and yet exclude *nearly* all of Rio Nido.” (Emphasis supplied.) Holliday Revised Petition at 3-4. The number or percentage of Rio Nido residents who will continue to receive delivery service is not provided by either the Petitioners or the Postal Service. Petitioners suggest that about 1000 Rio Nido residents do not currently receive mail delivery. There is no assertion by Petitioners that the Postal Service does not now, or that it would not after CPU closure, comply with all Postal Service delivery policies. The Postal Service is expected to provide delivery service to additional Rio Nido customers if necessary to comply with its delivery policies. PR Response to Motion at 4-5.

Shortly after the Public Representative’s Response to the Motion to Dismiss, an information request issued on July 24, 2017, requesting the Postal Service to provide detailed information concerning Postal Service criteria for determining eligibility for customer service (which includes home delivery), the best estimate of the maximum number of delivery points if delivery service were provided to Rio Nido, whether the Postal Service has considered the possibility of providing delivery service to Rio Nido customers and whether this possibility

⁴ Public Representative Response in Support of United States Postal Service Motion to Dismiss Proceedings, July 20, 2017 (PR Response to Motion).

was discussed with Rio Nido customers, and why nearly all homes do not receive street delivery with a discussion of what delivery options are available.⁵

The Postal Service's response on August 8, 2017 was received after the July 31, 2017 date established for Petitioners to file comments. Petitioners did not file comments although Petitioners did file an answer to the Motion to Dismiss.⁶

II. COMMENTS

The Postal Service's response to CHIR No. 1 can only be described as disappointing for the Rio Nido residents who do not receive home delivery. Based on the Postal Service's responses to CHIR No. 1, the Public Representative is not convinced the Postal Service has demonstrated, yet, that the lack of home delivery service following the closure of the Rio Nido CPO will conform to Postal Service delivery policies or that those residents without home delivery will receive adequate service. Unless the lack of home delivery service is justified as consistent with Postal Service policies and similar to treatment of customers throughout the nation, the lack of home delivery distinguishes this case from *Careywood* and the Rio Nido CPO should be considered the sole source of retail services to the community.

One factor in favor of the Postal Service is that the Guerneville Post Office is only 2.1 miles away, rather than approximately 7 miles as in *Careywood*. *Careywood* at 4. This fact may be enough to render *Careywood's* reliance, in part, on home delivery a distinguishable fact that warrants a finding here that Rio Nido is the sole source of service to those Rio Nido residents who do not receive home delivery. For this reason, the Public Representative can

⁵ Chairman's Information Request (CHIR) No. 1, July 24, 2017.

⁶ Petitioners' Response to United States Postal Service Motion to Dismiss Proceedings, July 20, 2017 (Petitioners Response to Motion to Dismiss).

only conditionally support the Postal Service's decision to close the CPO without following the procedural steps for closure of a post office.

On the basis of the Postal Service responses to the CHIR No. 1, it appears the Rio Nido CPO may have provided the sole source of postal services in Rio Nido. In *Careywood*,⁷ although the retail facilities would be approximately 7 miles further away from the retail facility being closed, at least the *Careywood* customers had home delivery service with access to their carrier for some retail purchases, if necessary. The Postal Service has not shown that its failure to provide home delivery services represents a full consideration of Postal Service delivery policies. It does not cite to any provisions in its Postal Operations Manual or other written policies in support of its decision and provides only general and vague support as its reasons to deny home delivery to all or virtually all of Rio Nido residents.

The Postal Service points generally to certain factors that it says preclude home delivery service. It did not provide the number of addresses (delivery points) as requested. Petitioners only mention the number 500 in an example of those who might have to drive additional distances for their mail.⁸ The Postal Service says 22 CBUs (Cluster Box Units) might be required requiring 400 square feet of land. Response to CHIR No. 1, question 2. It is not clear whether 22 is the maximum number of addresses for which it could provide a CBU or if that involves 22 different units, each for several addresses (that might total 500?). The acquisition of 400 sq. ft. of land for these CBUs should not be unusually difficult. The Postal Service does not say whether it

⁷ Docket No. A2016-2, *Careywood Post Office, Careywood, Idaho*, Order No. 2505, May 27, 2015.

⁸ Petitioners also state, "Nearly all of the homes in this community do not receive street delivery, and [the CPU's] removal would negatively affect hundreds of residents who rely on these vital services. Amended Participant Statement at 3. There are approximately 1,000 residents in Rio Nido. Petitioners Response to Motion to Dismiss at 4.

attempted to acquire the space at the current Rio Nido CPO. Also, Petitioners indicate they know of others who were willing to take on the task of operating a CPU. Amended Participant Statement at 3.

The Postal Service's policy is to install CBUs in new developments. It does not explain why CBUs would not be safe or secure in this rural tourist area of Sonoma County, virtually in the heart of the world famous California wine country. The specific problem with seasonal flooding in low areas making CBUs inaccessible is unexplained. Intermittent inconvenience does not seem to justify leaving customers without access to delivery service year round when it could reasonably be made available. If flooding is particularly serious, the residents may not be able to leave their own homes for any services or may choose to stay away anyway if their homes are seasonal. The Postal Service seems to claim the probability of intermittent flooding is a basis for denying home delivery service to customers.

Although the Postal Service says delivery service has never been provided to this ZIP Code,⁹ the Postal Service does not discuss how much the local population may have increased in recent years. While driveways are steep, mailboxes are placed at the bottom of the driveway or even at a convenient nearby entrance road. Larger packages can be retained at Guerneville as they are many times in areas with normal topography.

The Postal Service also cites as a reason for non-delivery service is that to establish a new delivery route out of Guerneville would be costly. Response to CHIR No. 1, question 1. This is not a reason for failing to provide home delivery service. All delivery routes require the cost of a carrier. The additional cost may only suggest it may be more economical to reopen a CPU or open a new retail post office to serve the community.

⁹ Response to CHIR No. 1, question 1.

The Postal Service also cites to narrow roads and substandard road conditions. Response to CHIR No. 1, question 1. Of course, there may be such cases, but the Postal Service does not demonstrate here that the roads justify denying home delivery service. Petitioners state “There is also nothing impracticable about delivering mail to mailboxes in Rio Nido since the post office delivers mail on the east and west sides of Rio Nido.”¹⁰ The Postal Service often provides home delivery to mailboxes on narrow one lane roads in resort areas near water, or out on narrow points of land that run for miles or on hilltops or on old rural roads. If about 500 residents are able to use these roads daily, it does not seem likely that the Postal Service’s policies would provide for the denial of home delivery service where that home delivery replaces a closed CPO that is the only reasonable source of postal services.

The Public Representative recognizes that alternatively the Postal Service has pointed out that the only change due to the Rio Nido CPU closing is the move to Guerneville and that home delivery has never has been provided to many Rio Nido customers. Since that service together with the internet and other available services was presumptively adequate, the narrow question is then whether only moving the retail service 2 miles is enough of a change in the nature of the service so that what was an adequate source of service is an inadequate source of service because the closed CPU was the sole source of service. The added inconvenience of even the two mile trip, together with limited service alternatives and the lack of home delivery, suggest that the move to Guerneville may be enough to warrant fuller review by the Commission and the Postal Service. .

The Commission should inquire further of the Postal Service for it to demonstrate that its decision to deny home delivery service conforms to Postal

¹⁰ Petitioners Response to Motion to Dismiss at 5.

Service policy. This policy should be consistent and uniform throughout the Postal Service's delivery areas. If it can make that showing, the petition might be denied; otherwise, the Commission, upon finding the Rio Nido CPU is the sole source of retail services to Rio Nido, may assert jurisdiction in this case and remand the closing for review to follow the procedures for closing a post office.

III. CONCLUSION

For the reasons stated above, if the Postal Service provides home delivery to all or virtually all of Rio Nido residents, or upon a satisfactory demonstration by the Postal Service that the lack of home delivery service in part of Rio Nido is consistent with Postal Service policies, the Commission should grant the Postal Service's Motion to Dismiss. Otherwise, the Commission should find the Rio Nido CPU is the sole source of postal services to the community despite the proximity of Guerneville and remand for further Postal Service procedures

Respectfully Submitted,

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